



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/025,896	02/18/98	LONGSTRETH	B

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QM11/0405

EXAMINER

GOODMAN, C

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 04/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/025,896

Applicant(s)
Billie J. LONSTRETH

Examiner
Charles Goodman

Group Art Unit
3724



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. The drawings are objected to because the Figures lack reference numerals that indicate features of the invention, especially features relevant to the claimed subject matter. See 37 CFR 1.83 and 1.84. Correction is required.

Specification

2. The disclosure is objected to because of the following informalities:
 - i) Pg. 1, Applicant is advised that if certain information is “Not Applicable”, i.e. “CROSS-REFERENCE TO RELATED APPLICATIONS”, “STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT”, and “REFERENCE TO A MICROFICHE APPENDIX”, then these sections should not be included in the specification. In other words, they are not necessary, and accordingly, they should be deleted.
 - ii) The specification lacks reference numerals to apprise one skilled in the art what features are discussed with respect to the Figures in the specification.

Appropriate correction is required.

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. Note the format of the claims in the patents cited, especially the recent patents.

- i) In claim 1, lines 1-2, the phrase “This cabbage cutter, a product used to cut cabbage, consists of” is indefinite, since it is not clear what exactly is being claimed, i.e. a cabbage cutter or a product. Moreover, the term “consists” is not a normally used claim terminology. The Examiner suggests that the phrase read -- A cabbage cutter comprising --. There are other informalities such as the phrases “the solid top”, “its sides”, “the way around”, and “the sharp, knife-like cutting edge” lacking clear antecedent basis. On this issue, Applicant is advised to see MPEP § 2173 for guidance. In addition, the phrase “knife-like” renders the claim indefinite, because the claim includes elements not actually disclosed (those encompassed by “-like”), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).
- ii) It is noted that Applicant is *pro se*. Thus, if Applicant requires further assistance on this issue or anything else, Applicant is invited to call the Examiner. The

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contact information is listed below. Moreover, Applicant is advised to review the recent patents included in this Office Action for further guidance on the issues discussed above including the specification and drawing objections.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Seib et al.

Seib et al discloses a cutting apparatus comprising a metal cylinder 36, a top 18, a cutting edge 42, and a safety cover 20. See Figs. 1-2.

Regarding the work piece being cabbage, it has not been given significant patentable weight, since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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Conclusion

7. Johnson, Secondiak, Lutzker, Snyder, Collins, Bundy, Rothje, Patton, Palmer, Bell, and Dubourg (FR 592,282) are cited as pertinent art.

8. An examination of this application reveals that applicant is not completely familiar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

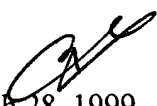
Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet

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communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

CG 
March 28, 1999


Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700